

SENATE BILL NO. 1041

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREEN.

Read 1st time January 29, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4563S.01I

AN ACT

To repeal section 386.756, RSMo, and to enact in lieu thereof one new section relating to heating, ventilation, and air conditioning (HVAC) services.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 386.756, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 386.756, to read as follows:

386.756. 1. Except by an affiliate, a utility may not engage in HVAC
2 services, unless otherwise provided in subsection [7 or] 8 **or 9** of this section.

3 2. No affiliate or utility contractor may use any vehicles, service tools,
4 instruments, employees, or any other utility assets, the cost of which are
5 recoverable in the regulated rates for utility service, to engage in HVAC services
6 unless the utility is compensated for the use of such assets at cost to the utility.

7 3. **No utility or affiliate shall engage in the sale and installation**
8 **of home generators for electrical production unless there are no**
9 **existing providers of HVAC services in the service area.**

10 4. A utility may not use or allow any affiliate or utility contractor to use
11 the name of such utility to engage in HVAC services unless the utility, affiliate
12 or utility contractor discloses, in plain view and in bold type on the same page as
13 the name is used on all advertisements or in plain audible language during all
14 solicitations of such services, a disclaimer that states the services provided are
15 not regulated by the public service commission.

16 [4.] 5. A utility may not engage in or assist any affiliate or utility
17 contractor in engaging in HVAC services in a manner which subsidizes the
18 activities of such utility, affiliate or utility contractor to the extent of changing
19 the rates or charges for the utility's regulated services above or below the rates
20 or charges that would be in effect if the utility were not engaged in or assisting

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

21 any affiliate or utility contractor in engaging in such activities.

22 [5.] 6. Any affiliates or utility contractors engaged in HVAC services
23 shall maintain accounts, books and records separate and distinct from the utility.

24 [6.] 7. The provisions of this section shall apply to any affiliate or utility
25 contractor engaged in HVAC services that is owned, controlled or under common
26 control with a utility providing regulated utility service in this state or any other
27 state.

28 [7.] 8. A utility engaging in HVAC services in this state five years prior
29 to August 28, 1998, may continue providing, to existing as well as new customers,
30 the same type of services as those provided by the utility five years prior to
31 August 28, 1998. The provisions of this section only apply to the area of service
32 which the utility was actually supplying service to on a regular basis prior to
33 August 28, 1993. The provisions of this section shall not apply to any
34 subsequently expanded areas of service made by a utility through either existing
35 affiliates or subsidiaries or through affiliates or subsidiaries purchased after
36 August 28, 1993, unless such services were being provided in the expanded area
37 prior to August 28, 1993.

38 [8.] 9. The provisions of this section shall not be construed to prohibit a
39 utility from providing emergency service, providing any service required by law
40 or providing a program pursuant to an existing tariff, rule or order of the public
41 service commission.

42 [9.] 10. A utility that violates any provision of this section is guilty of a
43 civil offense and may be subject to a civil penalty of up to twelve thousand five
44 hundred dollars for each violation. The attorney general may enforce the
45 provisions of this section pursuant to any powers granted to him or her pursuant
46 to any relevant provisions provided by Missouri statutes or the Missouri
47 Constitution.

48 [10.] 11. Any utility claiming an exemption as provided in subsection [7]
49 8 of this section shall comply with all applicable state and local laws, ordinances
50 or regulations relating to the installation or maintenance of HVAC systems
51 including all permit requirements. A continuing pattern of failure to comply with
52 said requirements shall provide the basis for a finding by any court of competent
53 jurisdiction or the public service commission that the utility has waived its claim
54 of exemption pursuant to subsection [7] 8 of this section.